

FILED-CLERK
U.S. DISTRICT COURT

1 TAWNYA R. WOJCIECHOWSKI, CAL. BAR NO. 183,068 19 AM 10: 27
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3 A Limited Liability Partnership
4 Including Professional Corporations
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TEXAS EASTERN
BY *[Signature]*

6 Attorneys for Plaintiff
7 BBG COMMUNICATIONS, INC.

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF TEXAS

10
11 BBG COMMUNICATIONS, INC., a
12 Delaware corporation,

13 Plaintiff,

14 v.
15

16 NETWORK COMMUNICATIONS
INTERNATIONAL CORP., a Texas
corporation; William Pope, an
individual, Jay Walters, an individual;
Jeffrey Walters, an individual ; and
17 DOES 1 through 10, inclusive
18

19 Defendants.
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25 Case No. 2:03CV227-TJW
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29 DECLARATION OF
MICHAEL STOMPS

DECLARATION OF MICHAEL STOMPS

I, MICHAEL STOMPS, under penalty of perjury, declare and state:

1. I am currently an independent sales agent of BBG Communications, Inc. ("BBG"). I have personal knowledge of all of the facts and circumstances set forth herein and if called as a witness, I could and would competently testify thereto.

2. I recently worked as an independent sales agent for Defendant NCIC and am familiar with its business practices.

3. Both NCIC and BBG are both multinational, multifunctional telecommunications companies serving diverse international markets that include North America, Europe, Japan, Israel, Latin America and the Caribbean basin. Both NCIC and BBG provides internal and external communications in various countries acting as a carrier, and as an international long distance reseller.

4. The telecommunications business is very competitive, and information collected about sources of international services, marketing information, potential customers, sales representatives are all very confidential and considered proprietary information of a telecommunications company, including but not limited to telecommunications services and operations, pricing information and marketing efforts; the processes, methods and equipment by which the company operates; names of and information about the company's agents, employees, customers and prospective customers; and the company's business and financial records.

5. BBG has registered and owns the internet domain name BBGCOMM.COM and uses such URL for its email addresses on its email server. BBG's practice for allocating its email from its email server to its employees follows the following nomenclature: [first name]BBGCOMM.COM or [first name last initial]BBGCOMM.COM. For example, I am aware that BBG's Secretary, Mr. Rafael Galicot's business email address is RAFAEL@BBGCOMM.COM, and

1 BBG's President, Mr. Gregorio Galicot, has his business email address configured as
2 GREGORIO@BBGCOMM.COM.

3 6. I am aware that BBG and NCIC have had significant competitive
4 contacts over the past 5 years, including in the Caribbean, and have frequently
5 placed competitive bids for contracts with individuals at various hotels, hotel chains,
6 pay phone operators and other accounts. I personally know Mr. William "Bill"
7 Pope, and have had many contacts with him in the industry over the past years.

8 7. Unbeknownst to BBG, Defendants registered the internet domain
9 name BBGCOM.COM on or about April 17, 2001. When I was hired by BBG, I
10 informed Mr. Rafael Galicot that NCIC is in possession of numerous emails
11 intended for BBG management, as I was aware that NCIC had set up email
12 addresses for the BBG personnel, including its top management, associated with the
13 BBGCOM.COM name.

14 8. Based on my personal knowledge Mr. Jeffrey Walters (an agent of
15 NCIC and a relative of Defendant Jay Walters) is in charge of reviewing the
16 misdirected emails that come into the NCIC server through the illicit use of the BBG
17 personnel names. Then, using a different email address at jeffrey@3comcr.com, Mr.
18 Walters collects these emails, screens them, and then forwards them to Mr. Pope for
19 review and comment. Based on information and belief, Mr. Pope then sends
20 directions to various NCIC employees and agents based on BBG's confidential
21 information revealed in them. I was the recipient of a number of these emails,
22 which contained the following types of BBG's confidential information which have
23 been obtained by NCIC through the use of these illicit email addresses: BBG pricing
24 information, BBG marketing information, BBG customer information; sales agent
25 sales information and spreadsheets, potential customer contacts, and bidding
26 information directly competitive to NCIC, among other valuable trade secret
27 information

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1 9. Last week, Mr. Rafael Galicot asked me if I had any of these emails in my
2 possession, and while I did not have any paper copies of any such information, I did
3 realize that some of these emails were still on my personal computer and forwarded
4 them to Mr. Galicot and his attorneys. Further, I know that Mr. Pope has complete
5 knowledge and control over the information illegally obtained from BBG and has
6 used such information to interfere with BBG's economic relationships for the direct
7 benefit of NCIC as BBG's direct competitor. A few samples of the emails from my
8 computer illustrate the gravity of NCIC's actions:

9
10 1. Email dated January 16, 2003, where a BBG customer was asking
11 for a credit to an account and sent an email to Annel, a BBG employee. The
12 customer sent the email to annel@bbgcom.com, which was intercepted by Jeffrey
13 Walters at NCIC, who then sent the email to me, asking if I had called the hotel
14 where the customer call originated. A true and correct copy of this email is attached
15 hereto as Exhibit A.

16 2. Email dated March 12, 2003, where Joanne Pearson, Operations
17 Manager for BBG in Ireland, sent a sales presentation with BBG billing information,
18 guarantee, Ireland hotel references and a BBG customer agreement to a potential
19 BBG customer, the O'Callaghan Hotels. Mr. Jeffrey Walters obtained and
20 forwarded the email with the sales presentation material and proprietary information
21 to me, saying "Someone needs to go after BBG Ireland." A true and correct copy of
22 this email is attached hereto as Exhibit B.

23 3. Email dated March 17, 2003, where BBG was internally discussing
24 the hiring of a new agent in Bermuda, someone inadvertently sent the email to the
25 BBGCOM.COM domain, and once intercepted by NCIC, Jeffrey Walters cut and
26 past information in the email to me, saying "Contact him at the end of this week or
27 in about 2 weeks . . . You need to come up with a story how you got the info. . . A
28 true and correct copy of this email is attached hereto as Exhibit C.

1 4. Email dated April 1, 2003, where Mr. Brian Rhys of BBG sent an
2 Excel spreadsheet with confidential and proprietary sales information for the
3 preceding August-February to Mr. Rafael Galicot (using the incorrect email address
4 inadvertently), which was intercepted by Mr. Walters and forwarded to Bill Pope,
5 who said "Has Stomps made any attempts to contact C&W Jamaica??? Does he
6 understand their [sic] is an open window of opportunity?" A copy of this email was
7 then sent to me. A true and correct copy of this email is attached hereto as Exhibit
8 D.

9 5. Email dated March 25, 2003 from a BBG customer concerning
10 billing charges for a hotel in St.. Maarten, which was intercepted by Mr. Walters and
11 forwarded to me, saying "What is the strategy on St. Maarteen? Are you guys still in
12 there? Doing any traffic? Do you have a local rep?" A true and correct copy of this
13 email is attached hereto as Exhibit E.

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15 6. Email dated April 22, 2003 from Damon Rhys, BBG Marketing
16 Director Asia/Oceania, concerning a contract with Melia Bali hotel contract, and
17 attaching a spreadsheet with call detail records for the hotel that was intercepted by
18 Mr. Walters and forwarded to me, saying "They have some problems with this hotel
19 ..." A true and correct copy of this email is attached hereto as Exhibit F.

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21 10. I only received a small portion of the emails which had been
22 intercepted by NCIC relating to BBG's business via the illicit email accounts, as Mr.
23 Jeffrey Walters only sent the emails to me concerning my sales areas or contacts.
24 Upon information and belief, Defendants are in possession of and are using much
25 more of BBG's confidential information than I received. I believe that NCIC's use
26 of the BBG mark was willful, having been adopted with knowledge of BBG's prior
27 rights in and to the BBG Marks, with the intent to trade on and benefit from the
28 goodwill established in the BBG Marks by Plaintiff. NCIC willfully used the

FROM :

FAX NO. : 17752541358

Jun. 18 2003 04:05PM PS

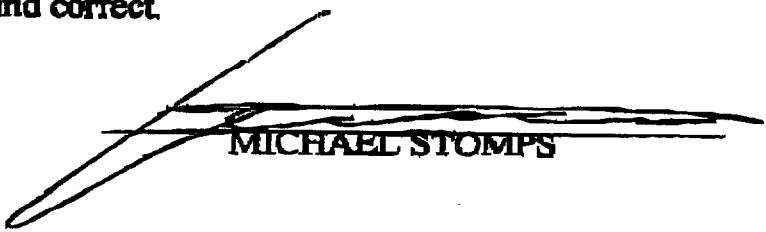
1 confidential information of BBG obtained through these illicit email addresses to the
2 commercial detriment of BBG. Further, the general public is being deceived into
3 believing that it is contacting BBG when an individual sends an email to any
4 individual's name at the BBGCOM.COM address.

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6 I declare under penalty of perjury under the laws of the United States of
7 America that the above is true and correct.

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9 Date: June 18, 2003


MICHAEL STOMPS

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